

AFFIDAVIT

NUMBER 42.

FORUM

GOVERNOR - GENERAL

MAJOR - GENERAL

P. M. GRIFFIN

GRAND JURY APPLICATION

' TWO COUNTS '

           ,

ACCOMPANYING AFFIDAVIT (42)

IN THE COUNTY COURT OF VICTORIA AT MELBOURNE AP- 16-1957

IN THE MATTER of an application under section 54 of the Vexatious Proceedings Act 2014

BETWEEN

THE ATTORNEY GENERAL FOR THE STATE OF VICTORIA

Plaintiff

And

BRIAN WILLIAM SHAW

COUSIN OF GENERAL

Defendant

MAJOR GENERAL PHILIP MICHAEL (KAFKAY) (B. ONE)

CHARGE AND GRAND JURY

Date of Document:	September 2016 14 December	Solicitors Code:	N/A
Filed on behalf of:	The Applicant	Telephone:	
Prepared by:	Brian William Shaw	DX:	N/A
		Ref:	N/A

I, Brian William Shaw, c/- of PO Box 800 Werribee Victoria do state and affirm the following:-

I. I STATE THAT THIS AFFIDAVIT EXHIBITS THE CRIMINAL CHARGES (2 COUNTS) OF TREASON AND MISPRISON OF TREASON Plus the Grand Jury Application ON THE ABOVE MENTIONED PERSON

AFFIRMED BY [Signature]

at Gisborne

DATE Fourteenth day of December 2016

WITNES [Signature]

CARMEL CLEMSON JP 3/84 HAMILTON STREET GISBORNE 3437 JUSTICE OF THE PEACE FOR VICTORIA REG. NO 12356

1/1

# Charge and Summons

(Bring this with you to Court)

## TO THE DEFENDANT

Major General Michael Jeffery  
 Governor General Commonwealth of Australia  
 Government House  
 Dunrossil Drive  
 YARRALUMLA ACT 2600

M <input type="checkbox"/>	F <input type="checkbox"/>	Co <input type="checkbox"/>	Date of Birth / /
Registration No		State	
Licence No		State	

You have been Charged with an offence against the Law  
 Read both pages to see what you must do

## Details of the charges against you

What is the charge? **1** The defendant within the Commonwealth of Australia during the period from 1st January 2004 up to and inclusive of present date did commit the offence of Common Law Treason by consent to the overt Act titled "Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 WA" enacted at Perth Western Australia on 1st January 2004

*TREASON  
COMMON LAW*

Under what Law?  State  Act  Other-specify **Common Law** Section or Clause (Full Ref) **Treason**  
 C'wealth  Reg

Type of offence  Summary offence (you should go to Court)  Indictable offence (you must go to Court)

Are there more charges?  No  Yes -see "Continuation of charges" attached

Informant **Brian W Shaw**  
 Agency and Address **280 Leakes Road Truganina Victoria** Phone No. **09 93941116**  
 Informant Signature \_\_\_\_\_ Date \_\_\_\_\_

## Where will the case be heard

Where you must go **The 'Magistrates' / Childrens' Court of Victoria at Melbourne**  
 Address **233 William Sreet Melbourne Victoria** Phone No. \_\_\_\_\_  
 When Time \_\_\_\_\_ Day \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

## Details about this summons

Issued at **MELBOURNE** Date \_\_\_\_\_  
 Issued by Signature \_\_\_\_\_  Registrar  Magistrate  Other  
 Charge filed at **MELBOURNE** Date \_\_\_\_\_

*ORIGINAL WITH COURT*  
*Plus Grand Jury APPOINTMENT*  
*GOVERNOR GENERAL*  
*15 DECEMBER 2006 (2 COURT)*  
*TREASON & MISFEASANCE OF TREASON*

# Continuation of Charges

Bring this with you to Court

Page No 2

Person Charged

2 The defendant did commit the offence of Common Law Misprison of Treason by concealing the overt Act titled "Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 WA" from the Electorate of the States, Territories and Commonwealth during the period from 1st January 2004 up to and inclusive of present date

*MISPRISON OF  
TREASON  
COMMON LAW*

State  Act  Other- Specify

Act or Regulation No

Section or Clause (Full Ref)

Common Law

Misprison of Treason

C'wealth  Reg

Summary Offence (You should go to Court but you must go if you are on bail)

Indictable Offence (You must go to Court)

3

State  Act  Other- Specify

Act or Regulation No

Section or Clause (Full Ref)

C'wealth  Reg

Summary Offence (You should go to Court but you must go if you are on bail)

Indictable Offence (You must go to Court)

Are there more charges?  Yes  No

Informant

Brian W Shaw

Agency and Address

280 Leakes Road Truganina Victoria

Phone No

09 93941116

Informant  
Signature

Registrar  
Signature

Charge filed at

MELBOURNE

97

IN THE SUPREME COURT OF VICTORIA  
FULL COURT; CRIMINAL JURISDICTION

No: of 2006

IN THE MATTER of the Crimes Act 1958

And

IN THE MATTER of an Application by

Brian William Shaw

APPLICATION FOR GRAND JURY

TAKE NOTICE that the Full Court of the Supreme Court will be moved on the Day  
of 2006 at am by the Applicant for the following Orders pursuant  
to Section 354 of the Crimes Act 1958, the Applicant having disclosed Indictable  
offence/offences involving *Treason, Misprison of Treason, Foreign Allegiances,*  
*Unlawful Oaths*, but not limited to these Indictable Offences committed by:

Major General Michael Jeffery  
Governor General Commonwealth of Australia

1. The Sheriff is ordered *to summons a Grand Jury to appear* at a Court to be holden at a time and place determined by the Court in accordance with the provision of Section 354 of the Crimes Act 1958 (Vic) to attend at such Court at that time and place to inquire present do and execute all things which on the part of "*the Queen*" shall then and there be commanded of them.

*Copy of Document lodged*  
*15 December 2006*

2. **TREASON IS:**

*“Treason consists of a Breach of duty of Allegiance which the Subject owes to the Sovereign and which binds him at all times and in all places”*

[Rex v Casement 1917, 1 KB 98 at 114]

3. **CRIMES ACT 1958 VICTORIA – SECTION 351**

**Mode of prosecution**

*“All treasons and misprisions of treason shall be prosecuted by indictment only, and all other indictable offences may be prosecuted by indictment or by presentment as hereinafter directed.”*

4. **CRIMES ACT 1958 VICTORIA – SECTION 322E**

**Treason and misprision of treason not affected**

*“Nothing in this Part shall be taken to affect directly or indirectly any matter of law or practice applicable to treason or misprision of treason.”*

5. **CRIMES ACT 1958 VICTORIA – SECTION 316**

**Unlawful oaths to commit treason, murder etc.**

(1) Every person who—

(a) Administers or is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to commit treason or murder; or

(2) Every person who—

(a) administers or is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to act in any of the ways following (that is to say):—

(ii) To commit any indictable offence other than treason or murder;

(vii) not to reveal or discover any unlawful association society or confederacy or any illegal act done or to be done or any illegal oath or engagement that may have been administered or tendered to or taken by himself or any other person or the import of any such oath or engagement; or

shall be guilty of an indictable offence, and shall be liable to level 6 imprisonment (*5 years maximum*).

6. **CRIMINAL CODE ACT 1995 (CTH)**

Chapter 5: The Security of the Commonwealth

Part 5.1 Treason

Division 80 Treason

*Penalty: Imprisonment for Life*

7. **CRIMINAL CODE ACT 1995 (CTH)**

Chapter 5: The Security of the Commonwealth

Part 5.1 Treason

Division 80 Concealment or Assistance

(2) A person commits an offence if the person:

(a) Receives or assists another person who, to his or her knowledge, has committed treason with the intention of allowing him or her to escape punishment or apprehension; or

(b) Knowing that another person intends to commit treason, does not inform a constable of it within a reasonable time or use other reasonable endeavours to prevent the commission of the offence.

*Penalty: Imprisonment for Life*

8. **JUDICIARY ACT 1903 (CTH) SECTION 80**

**Common law to govern**

*So far as the laws of the Commonwealth are not applicable or so far as their provisions are insufficient to carry them into effect, or to provide adequate remedies or punishment, the common law in Australia as modified by the Constitution and by the statute law in force in the State or Territory in which the Court in which the jurisdiction is exercised is held shall, so far as it is applicable and not inconsistent with the Constitution and the laws of the Commonwealth, govern all Courts exercising federal jurisdiction in the exercise of their jurisdiction in civil and criminal matters.*

9. **TREASON & MISPRISON OF TREASON:**

**Must be by Grand Jury Exclusively**

a. **Byrne V Armstrong (1899) 25 VLR 126** (The Indictment)

*“That section contemplates an ex parte application founded upon an affidavit disclosing an indictable offence, and that a justice has refused to commit. The court has no discretion once those conditions are complied with. Section 386 shows that so far as Treason is concerned it must be prosecuted by indictment. The Attorney General could not start such a prosecution. It must be by grand jury.” (at 126)*

b. **Byrne V Armstrong (1899) 25 VLR 126** (The Finding)

*“It is provided now that all the prosecutions shall be by presentment, but preserving the prerogative of the Crown through the Attorney General to proceed by information, except in case of ‘treason’ which has to be by indictment. Now indictment means by Grand Jury and therefore, inasmuch as the statute provides that Treason shall be tried by indictment only. That means that it must be by Grand Jury and no other means is provided for bringing it before a Grand Jury.” The finding of the Attorney General is*

101

*equivalent to the finds of the Grand Jury, but in the case of Treason it must be the finding of the Grand Jury.” (at 132)*

- c. **McArdle V Lorne Campbell (Sept 1986) (On Behalf of the Crown)**  
*“Much has changed since 1940 and in particular the Office of Director of Public Prosecutions has been established by Act No 9848 of 1982. Under that Act the Director of Public Prosecutions is charged with preparing, instituting and conducting criminal proceedings on ‘behalf of the Crown.’ The Director is responsible to the Attorney General for the due performance of his functions and he is given the power to enter a nolle prosequi in criminal proceedings. But the Attorney-General’s power to enter a nolle prosequi is preserved in these circumstances, now that the responsibility for instituting criminal proceedings has been taken out of the hands of the Attorney-General, it may be that there is not the same need to have an alternative method of instituting proceedings. When the Office of Director of Public Prosecutions was established S354 of the Crimes Act was amended to substitute the words ‘the Director or Public Prosecutions’ for the words ‘a law officer.’ The section therefore now operates where the Director declines to present.”*

## 10. FOREIGN ALLEGIANCE

- a. **Commonwealth Constitution Act 1900 Section 44 (i)**

### **Disqualification**

*Any person who:*

- (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or*

b. Commonwealth Constitution Act 1900 Section 44 (ii)

**Disqualification**

*Any person who:*

*(ii) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or*

11. COMMONWEALTH CONSTITUTION ACT 1900 SECTION 80

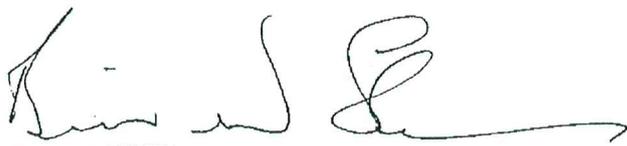
**Trial by jury** [Section 80 Constitutional Guarantee]

*"The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes."*

12. Such further or other orders that may be just and necessary.

DATED the 15th day of December, 2006

This Application is filed by



Brian W Shaw

280 Leakes Road,

Truganina, 3030 Victoria

*Logged at Full Court  
immediately after MAGISTRATES COURT  
HEARINGS (IAN GRAY) 15 DECEMBER 2006*

*But, CONVICTION. H.*

*102*